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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,415	07/27/2001	Thomas Talanis	A34482-PCT-USA (071308.02	8862

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EXAMINER	
SWEARINGEN, JEFFREY R	
ART UNIT	**PAPER NUMBER**
2145	

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/916,415	TALANIS ET AL.	
	Examiner	Art Unit	
	Jeffrey R. Swearingen	2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 September 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4 and 11-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4 and 11-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/2/2005 has been entered.

2. Applicant's submission of 9/2/2005 was noted as being in regard to application no. 10/641,996. The Examiner believes this is a typographical error on the part of Applicant after reviewing the claims of 09/916,415, 10/641,996, and the submission of 9/2/2005. Applicant is invited to inform the Examiner if this is not the case, but the claims will be treated as dealing with 09/916,415 for purposes of compact prosecution.

Response to Arguments

3. Applicant's arguments are not persuasive, as they state that the limitations of the claims are not present in the Mohammed and Horstmann references. Applicant has stated that the present invention is not "visible" on the Internet in Applicant's remarks. Applicant is requested to explain explicitly how the invention, or any other computer, can function if not "visible" on the Internet. All computers connected to the Internet must have an IP address in order to function. If a computer has an IP address, then it is "visible" on the Internet. If the "invisibility" feature of Applicant's invention is a novel component, Applicant is invited to explain this feature more fully in order to fully enable the "invisible" system that Applicant has argued.

4. Applicant's arguments are based upon the amended claims.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-2, 4, and 11-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. A machine must have an IP address in order to transmit and receive data over the Internet. This is a bedrock component of the TCP/IP data transfer system, which is the *de facto* method of transmitting data over the Internet. Applicant has amended claims 1 and 12 to recite that *the client does not have an own IP address and is thus not visible on the Internet.* The specification did not adequately support how this concept could be brought to fruition by one of ordinary skill in the art. Applicant cites as an example of this a "B&B system" (paragraph 0005, specification). One of ordinary skill in the art would not be aware of what a "B&B system" would entail, as searches of the prior art have not revealed any relevant information to this concept.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-2 and 12-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Mohammed et al. (U.S. Patent No. 6,421,728).

9. In regard to claim 1, Mohammed disclosed *a method for asymmetrically transmitting data between an Internet server and a client over the Internet, comprising: transmitting from a client a first connection request for setting up a first transmission channel via an Internet connection to an Internet*

Server; transmitting to the client a first response to the first connection request by the Internet server, the first response establishing the first transmission channel and including connection data for subsequently establishing a second transmission channel via an Internet connection to the Internet Server; transmitting information to the Internet server by the client for maintaining the first transmission channel, the information informing the Internet server that there is an intention to further transmit user data to the internet server for avoiding cancellation of the first transmission channel by the Internet server; transmitting from the client a second connection request for setting up a second transmission channel ia an Internet connection to the Internet Server using the connection data, wherein the first and second connection requests are successively transmitted; and transmitting to the client a second response to the second connection request by the Internet server, the second response establishing the second transmission channel, wherein the client does not have an own IP address and is thus not visible on the internet, the first transmission channel and the second transmission channel bidirectionally transmit and receive, independently of one another in terms of timing, data between the client and the Internet Server over the Internet, the first transmission channel is a back channel for transmitting user data from the Internet Server to the client, and the second transmission channel is a forward channel for transmitting requests from the client to the Internet server. Mohammed disclosed establishing both an upstream and a downstream connection from an Internet server. The two connections were separate and asynchronous. This is detailed in Mohammed, column 3, lines 17-38; column 4, lines 12-24; column 5, lines 32-44. The requests and responses claimed by Applicant are inherent to the establishment of a data transmission channel, since handshaking is used to establish the connection by passing *connection data* back and forth between ends of the connection.

10. In regard to claim 2, Mohammed is applied as in claim 1. Mohammed further disclosed *dummy data are transmitted in the absence of user data in order to maintain the transmission channels.* Mohammed disclosed the use of poll packets, which were *dummy data*. See Mohammed, column 10, line

11. Claim 12 is substantially the same as claim 1.

12. Claim 13 is substantially the same as claim 2.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

14. Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mohammed as applied to claims 1 and 12, and further in view of Baird et al. (U.S. Patent No. 6,564,128, formerly Rogers et al., U.S. Pub. No. 2002/0143446).

15. In regard to claim 4, Mohammed is applied as in claim 1. Mohammed failed to disclose working with an automation system. However, Baird disclosed *wherein data for operating and monitoring an automation system is provided over the Internet, the first transmission channel used for transmitting status data of the automation system to the client, and the second transmission channel used for transmitting requests from the client to the automation system.* [see Baird, column 9, lines 15-42]. It would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Baird's Internet-enabled automation system with the teachings of Mohammed for the purpose of allowing an automation system to interact in real-time with a remote computer system [see Baird, column 7, lines 44-55, column 7, lines 11-26]. Mohammed provides motivation to combine by stating the invention can be applied to all networks in general (see Mohammed, column 3, lines 23-26). Baird also supports the combination further by stating that it is preferably used with DCOM technologies on a DCOM server (Baird, column 10, lines 20-45), which is shipped with the preferred embodiment for Mohammed.

16. Claim 14 is substantially the same as claim 4.

17. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mohammed in view of Baird in further view of Horstmann et al. (Markus Horstmann and Mary Kirtland, DCOM Architecture, Microsoft Developer's Network Library, July 23, 1997).

18. In regard to claim 11, Mohammed in view of Horstmann is applied as in claim 4. Mohammed failed to disclose the use of DCOM technology. However, Horstmann discloses key aspects of the DCOM architecture, including the ability for an object to consist of two interfaces. See Horstmann, pages 5-6. It would be obvious to one of ordinary skill in the networking art to use DCOM with Mohammed for many reasons, including communication with different computers (Horstmann, 1) and creating multiple interfaces with an object (Horstmann, 5-6). Mohammed is analogous art because both Mohammed and Horstmann operate with the Windows NT operating system (Mohammed, column 3, lines 36-38; Horstmann, page 1) and deal with network communications (Mohammed, column 4, lines 12-24; Horstmann, page 1). Mohammed further gives motivation for the combination by being designed for Windows NT (Mohammed, column 3, lines 36-38), and version 4.0 of Microsoft Windows NT (shipping at the time of the application of Mohammed) included DCOM as part of the operating system (Horstmann, page 1).

19. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mohammed in further view of Horstmann et al. (Markus Horstmann and Mary Kirtland, DCOM Architecture, Microsoft Developer's Network Library, July 23, 1997).

20. In regard to claim 15, Mohammed is applied as in claim 12. Mohammed failed to disclose the use of DCOM technology. However, Horstmann discloses key aspects of the DCOM architecture, including the ability for an object to consist of two interfaces. See Horstmann, pages 5-6. It would be obvious to one of ordinary skill in the networking art to use DCOM with Mohammed for many reasons, including communication with different computers (Horstmann, 1) and creating multiple interfaces with an object (Horstmann, 5-6). Mohammed is analogous art because both Mohammed and Horstmann operate with the Windows NT operating system (Mohammed, column 3, lines 36-38; Horstmann, page 1) and deal with network communications (Mohammed, column 4, lines 12-24; Horstmann, page 1). Mohammed further

gives motivation for the combination by being designed for Windows NT (Mohammed, column 3, lines 36-38), and version 4.0 of Microsoft Windows NT (shipping at the time of the application of Mohammed) included DCOM as part of the operating system (Horstmann, page 1).

Conclusion

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hemstreet et al.	U.S. Patent No. 6,931,447
Nelson	U.S. Patent No. 6,553,422
Clark et al.	U.S. Patent No. 6,317,797

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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ZARNI MAUNG
SUPERVISORY PATENT EXAMINER